

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

R.M., et al.,)
Plaintiffs,)
v.) No. 4:15-CV-706 CAS
CITY OF ST. CHARLES PUBLIC)
SCHOOL DISTRICT R-VI,)
Defendant.)

MEMORANDUM AND ORDER

Pending before the Court is plaintiffs' motion for leave to file pleadings by initials, which defendant City of St. Charles Public School District R-VI ("the District") opposes. Also pending before the Court is the District's Motion to Dismiss Plaintiffs' First Amended Complaint, and plaintiffs' Motion for Leave to File a Second Amended Complaint, both of which are also opposed. For the following reasons, the Court will allow plaintiffs leave to file their pleadings by initials, and leave to file a Second Amended Complaint.

Pursuant to Rule 17(a) of the Federal Rules of Civil Procedure, “[a]n action must be prosecuted in the name of the real party in interest.” Fed. R. Civ. P. 17(a). A party may proceed under a fictitious name, including initials, with leave of Court. The use of a fictitious name is discouraged, but in certain circumstances a plaintiff may be allowed to proceed using initials to protect the plaintiff’s privacy interests. 2 James Wm. Moore, et al., Moore’s Federal Practice, 10.02[2][c][iv]. In the present case, plaintiffs, a student and her parents, are pursuing claims against the District under the Individual with Disabilities Education Act of 1975, 20 U.S.C. §§ 1400, et seq. While the student recently turned eighteen, the events at issue occurred when the student was a

minor, and the allegations involve a confidential Individualized Education Plan. The Court finds plaintiffs have established the need to proceed with initials in order protect their privacy interests, especially that of the student.

Also pending before the Court is the District's Motion to Dismiss Plaintiffs' First Amended Complaint, and plaintiffs' Motion for Leave to File a Second Amended Complaint. Rule 15 of the Federal Rules of Civil Procedure governs amended and supplemental pleadings. Rule 15(a) provides in pertinent part:

(1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

Unless there is a good reason for denial, "such as undue delay, bad faith, or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the non-moving party, or futility of the amendment, leave to amend should be granted." Thompson-El v. Jones, 876 F.2d 66, 67 (8th Cir. 1989) (citing Foman v. Davis, 371 U.S. 178, 182, (1962)).

Defendant opposes plaintiffs' Motion for Leave to File a Second Amended Complaint on the grounds that amendment would be futile. The District argues that plaintiffs' Second Amended Complaint continues to fail to state a claim upon which relief may be granted. In their opposition, the District makes cursory arguments as to why the Second Amended Complaint, which includes additional claims, fails to state a claim under the pleading standard articulated in Bell Atlantic Corp.

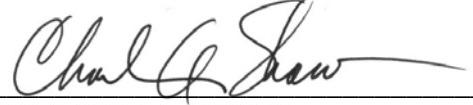
v. Twombly, 550 U.S. 544, 555 (2007). In the Court's view, defendant has not established in its memorandum in opposition that amendment would be futile. That said, the granting of plaintiffs' motion for leave to amend does not bar defendant from raising its arguments at a later date. Furthermore, the Court finds that the amendment does not prejudice defendant, other than mooting its motion to dismiss, which can be simply refiled. Pure Country, Inc. v. Sigma Chi Fraternity, 312 F.3d 952, 956 (8th Cir. 2002) (pending motions pertaining to the original complaint should be denied as moot). Under the Rule 15(a) standard, the Court will allow the amendment. Accordingly,

IT IS HEREBY ORDERED that plaintiffs' Motion for Leave to File Pleadings by Initials is **GRANTED**. [Doc. 2]

IT IS FURTHER ORDERED that plaintiffs' Motion for Leave to File Second Amended Complaint is **GRANTED**. The Clerk of the Court shall detach and docket the Second Amended Complaint, which was submitted as an attachment to the Motion for Leave. [Doc. 21]

IT IS FURTHER ORDERED that defendant City of St. Charles Public School District R-VI shall file its answer or response to the Second Amended Complaint within the time permitted by the Federal Rules.

IT IS FURTHER ORDERED that defendant City of St. Charles Public School District R-VI's Motion to Dismiss and Motion for Extension of Time to File Reply Memorandum in Support of its Motion to Dismiss are **DENIED as moot**. [Docs. 10 and 23]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 20th day of July, 2015.